



## Application concerning remand for hostile social-media posts threatening Latvia inadmissible

In its decision in the case of [Gapoņenko v. Latvia](#) (application no. 30237/18) the European Court of Human Rights has by a majority declared the application inadmissible. The decision is final.

The case concerned the arrest in 2018 and subsequent detention of Mr Gapoņenko for various alleged criminal offences related to actions directed against national independence and incitement to hatred. He had put a series of posts on social media concerning Russo-Latvian relations in which he had spoken about, among many other topics, NATO, language policy in Latvia, and the Russian minority in Latvia, with accusations that the NATO presence in Latvia was to intimidate Russophones, and threats of nuclear war on Latvian territory.

The Court found there had been a “reasonable suspicion” that Mr Gapoņenko had committed offences, and that reasoning had not been arbitrary, when his remand had been ordered.

It also held that it had not been unreasonable to place Mr Gapoņenko in remand given his attacks had been directed against the Latvian State at a time of Russian military action or control in both Georgia and Ukraine.

### Principal facts

The applicant, Aleksandrs Gapoņenko, is a Latvian national who was born in 1954 and lives in Riga. He is a political activist advocating for the rights of the Russophone minority in Latvia.

During the period August 2017 to April 2018, Mr Gapoņenko put up a series of posts on social media on the subject of relations between the Russian Federation and Latvia, between the Russian Federation and the West in general, and between Latvia and its Russian-speaking minority. Among other things, Mr Gapoņenko stated the following:

“The presence of NATO in Latvia is not meant to counter the Russian army, but to quell possible rebellions by the Russian population in Latvia.”

“[Latvia’s] persecution of the Russian population provides Russia with grounds to intervene.”

“I see that the state of things is leading towards a war, provoked by the West against Russia and the Russian diaspora. It will start with the language and children’s right to study in their own language.”

“National Socialists intend to threaten ethnic minorities and are hiding behind American tanks and helicopters.”

“The Latvian ruling elite considers Russians to be a second-class race. But now Latvians will have to pay a bloody tax. The annual depopulation rate will increase from 1% to 2%, and Latvians as a nation will cease to exist in 2040 – not in 2060 as initially expected.”

“Russia will retaliate with a nuclear strike against the Lielvārde Airbase and the Naval base in Liepāja”.

In April 2018 the then Security Police arrested Mr Gapoņenko for the offences of actions directed against national independence, sovereignty, territorial integrity, State power or administrative order of the Republic of Latvia in a manner not provided for in the Constitution and incitement to national, ethnic or religious hatred or enmity using an automated data-processing system. He was placed on remand by the courts, and that order was extended until 23 August 2018, when he was released.

In April 2022 he was convicted of incitement to hatred by using an automated data-processing system in another criminal case. He received a ten-month suspended prison term and two years' probation.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 22 June 2018.

Relying on Article 5 §§ 1 and 3 (right to liberty and security) and Article 10 (freedom of expression), Mr Gaponenko complained that his arrest and detention had not been based on a reasonable suspicion, and that his detention on remand had violated his freedom of expression.

The decision was given by a Chamber of seven judges, composed as follows:

Lado **Chanturia** (Georgia), *President*,  
Carlo **Ranzoni** (Liechtenstein),  
Mārtiņš **Mits** (Latvia),  
Stéphanie **Mourou-Vikström** (Monaco),  
Mattias **Guyomar** (France),  
Kateřina **Šimáčková** (the Czech Republic),  
Mykola **Gnatovskyy** (Ukraine),

and also Victor **Soloveytchik**, *Section Registrar*.

## Decision of the Court

### Article 5 §§ 1 and 3

The Court noted that in April 2018 the Riga Regional Court had held that there had been a “reasonable suspicion” that Mr Gaponenko – who had not denied writing the posts – had committed the offences in question. The Court was satisfied that the Regional Court’s citing the risk of re-offending as a reason for ordering the remand was acceptable in the present case. The reasoning did not appear to have been arbitrary.

As concerns the length of the remand, the Court noted the relatively short length of the detention and that Mr Gaponenko had been released when the circumstances for ordering his remand had no longer pertained.

The Court held that this part of the application was manifestly ill-founded and therefore rejected it.

### Article 10

Mr Gaponenko claimed that his remand had been retaliation for his opinions and that they would have a chilling effect. However, the Court reiterated that there had been a reasonable suspicion of criminality against Mr Gaponenko at that time and that the detention had been legitimate. It interfered with his freedom of expression for the “prevention of disorder or crime”.

The Court could not overlook the fact that Latvia is a neighbouring country of Russia which, at the time of the events in this case, had already invaded parts of [Georgia](#) and had taken control of parts of [Ukraine](#). The national courts’ actions had been directed against a real risk of crimes that represented an attack against the country of Latvia itself. For the Court, this had been neither arbitrary nor unreasonable. In any event, the Court noted that the criminal proceedings which were the subject of the present application were still pending before the domestic court and that the applicant had not been so far convicted for any criminal offence in those proceedings.

As regards the restrictions on Mr Gapoņenko’s social-media usage while on remand, the Court reiterated that detention necessarily entailed inherent limitations on the exercise of some fundamental rights, and that some measure of control of the detainee’s contacts with the outside world was called for and was not of itself incompatible with the Convention.

The Court therefore rejected this part of the application too.

*The decision is available only in English.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court’s press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHR\\_CEDH](https://twitter.com/ECHR_CEDH).

**Press contacts**

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel: +33 3 90 21 42 08

**We would encourage journalists to send their enquiries via email.**

Neil Connolly (tel.: + 33 3 90 21 48 05)

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Jane Swift (tel.: + 33 3 88 41 29 04)

**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.